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arbitration treaty is the contention of Mr. Wheeler's committee, who maintain that no treaty-making power is thus delegated to the President; that though every treaty is an agreement, every agreement is not a treaty; and that the power of the President and the Senate to make treaties is not limited to the power to make special treaties only.

Mr. Wheeler's view seems to derive some support from a decision under the tariff act of Oct. 1, 1890, in which a somewhat similar question was involved. Section three of this act provided that whenever the President should be satisfied that the government of any country producing certain articles which were admitted free into the United States, imposed on products of the United States duties which he should deem reciprocally unreasonable, he should suspend the free introduction of these articles for such a time as he should deem just, during which time designated duties were to be paid. 26 U. S. STAT. AT L. 567. This was held constitutional. *Field v. Clark*, 143 U. S. 649. The court, after acquiescing in the general proposition that Congress cannot delegate its legislative power to the President, stated its position as follows: "It [the action of the President] was not making law. He was the mere agent of the law-making department to ascertain and declare the event upon which its expressed will was to take effect. . . . What has been said is equally applicable to the objection that the third section of the act invests the President with treaty-making power." See BUTLER, TREATY-MAKING POWER OF THE U. S. § 465, note 1.

Following out the analogy of this decision, it would seem that, although the President and Senate cannot delegate to the President the treaty-making power, yet they can frame a general arbitration treaty, in which the President is made the mere agent of the treaty-making department. The treaty gives a general ratification in advance, delegating to the President, as executive, the power of determining what individual instances fall within the scope of the ratification, and of making the necessary arrangements for carrying out the provisions for arbitration.

RIGHT OF CITY TO REQUIRE MATERIAL FOR ITS PUBLIC WORKS TO BE DRESSED WITHIN STATE. — A recent article criticising a late decision of the Missouri Supreme Court has brought into prominence a very interesting question of interstate commerce. *Municipal Ordinances relating to Materials entering into Public Works which Interfere with Interstate Commerce*, by Eugene McQuillin, 61 Cent. L. J. 65 (July 28, 1905). An ordinance of St. Louis provided that only rock dressed within the state should be used in any of the city's public works. The court held that this ordinance was not in conflict with the commerce clause of the Federal Constitution, but was an exercise of a city's "reasonable right to select material for street improvements." *Allen v. Labsap*, 87 S. W. Rep. 926. This proposition Mr. McQuillin attacks, on the ground that a city's "reasonable right" does not justify an interference with interstate commerce, and that such an interference existed in the case under discussion. Mr. McQuillin leads up to this main point by a preliminary exposition of the elementary principles of interstate commerce, followed by the statement of several cases. A number of the decisions cited, however, seem not in point; among them, *People v. Coler* (166 N. Y. 144), on which chief reliance is placed. The opinion was to the effect that a state law requiring cities to adopt such ordinances as that of St. Louis is invalid under the commerce clause of the Constitution. There the state was prescribing conditions, not for itself in its rôle of proprietor, but for its cities. Nor does any question there arise of the reasonable right of a city to select material for its own works. The United States Supreme Court in the case of *Atkin v. Kansas* (191 U. S. 207) rendered a decision which applies very forcibly to the point under discussion. A state law requiring an eight-hour day on all the state's public works was held valid, on the ground that the state acting as a proprietor has the same right as an individual in prescribing the conditions under which work for it shall be done. If the Union Pacific, for example, were to declare that only ties dressed in

Missouri should be used on its roadbed in that state, there would surely arise no question of interference with interstate commerce.

The other cases cited by Mr. McQuillin hold invalid general state laws interfering with the inherent right to introduce goods from one state into another and to sell them in the general market. For example, the case of *Robbins v. Shelby Taxing District* (120 U. S. 489) declared unconstitutional a state law which put a license tax on all sales by drummers. The citation is not apposite, for St. Louis does not by its ordinance interfere with the sale to others of dressed rock from any source. The resulting reduction of the general market has no bearing on the constitutionality of the ordinance, since an individual or a corporation might easily use as large a proportion of dressed rock as does a single city. The fallacy in Mr. McQuillin's contention lies in the assumption that any one has an inherent right to compel St. Louis, for example, to accept his rock. No such right exists as against a city or state any more than it exists as against an individual or a corporation.

ABATEMENT OF SMOKE NUISANCE IN LARGE CITIES BY LEGISLATIVE DECLARATION

THAT DISCHARGE OF DENSE SMOKE IS A NUISANCE PER SE. *Eugene McQuillin*. Collecting and reviewing the authorities on the question whether such legislation is within the reasonable exercise of the state's police power. 60 Cent. L. J. 343.

"AGENCY BY ESTOPPEL." *John S. Ewart*. Reply to Professor Cook, presenting estoppel theory in cases of agent's unauthorized action. 5 Columbia L. Rev. 354.
AMERICAN LAWYER, THE. *Alfred Hemenway*. The annual address before the American Bar Association. 17 Green Bag 514.

BASIS OF AFFIRMATIVE OBLIGATIONS IN THE LAW OF TORT, THE. II. *Francis H. Bohlen*. Full discussion of the line of cases headed by *Winterbottom v. Wright*. 53 Am. L. Reg. 273.

BUYER'S RISK IN CLOSING A REAL ESTATE DEAL, THE — HOW TO ESCAPE IT. *Lemuel M. Ackley*. A practical and valuable suggestion. 38 Chic. Leg. News 11.

CASE OF JOHN CHANDLER v. THE SECRETARY OF WAR, THE. *Gordon E. Sherman*. Tracing the origin of the power of our courts to declare laws unconstitutional, and giving early cases on that point. 14 Yale L. J. 431.

CENTENARY OF THE FRENCH CIVIL CODE, THE. *Sir Courtenay Ilbert*. Touching incidentally the general question of codification. (Read before British Academy, 1904.) 6 J. Soc. Comp. Leg. n. s. 218.

CERTAINTY AND JUSTICE. *Frederic R. Coudert*. Maintaining that the principle of "Stare Decisis" is being modified. Where public opinion has crystallized, the law is clear; elsewhere, as in labor questions, law is confused. 14 Yale L. J. 361. See 18 HARV. L. REV. 318.

COMMON LAW IN FEDERAL JURISPRUDENCE, THE. *Thomas Dent*. Concerning the ownership of basins of non-navigable waters adjoining land granted by United States patents. 61 Cent. L. J. 123.

CONDITIONS IN CONTRACT. *Clarence D. Ashley*. Distinguishing between express conditions, implied conditions, and limitations. 14 Yale L. J. 424.

CONSTITUTIONALITY OF GENERAL ARBITRATION TREATIES, THE. *Everett P. Wheeler*. 17 Green Bag 533. See *supra*.

CONTRIBUTION TO GENERAL AVERAGE. *H. Birch Sharpe*. Discussing how the obligation to contribute to general average arises in a policy of marine insurance. 21 L. Quar. Rev. 155.

COVENANT TO REPAIR IN SUB-LEASES, THE. *H. C. M.* A valuable warning to sublessors to see that every sub-lease reserves a power to the lessor to enter and make repairs on the tenant being in default. 119 Law T. 285.

CUSTOMS OF RAGUSA, THE. *P. Vinogradoff*. Being a review of a recent edition of the Statute of Ragusa. 21 L. Quar. Rev. 179.

DECEASED WIFE'S SISTER, THE. *N. W. Hoyles*. Called forth by the prevalence in Canada of marriages with deceased wives' sisters and discussing the question from a legal and historical view-point. 41 Can. L. J. 345.

DESTRUCTION OF NEUTRAL SHIPS BY A BELLIGERENT. *Hugh H. L. Bellot*. Maintaining that destruction of neutral ships by a belligerent cannot be justified by even the gravest necessity. 119 Law T. 193.

- DEVELOPMENT OF THE RULE IN *KEECH v. SANDFORD*, THE. *Walter G. Hart*. Treating the question how far a trustee of a lease purchasing a renewal or the reversion becomes a constructive trustee thereof for his *cestui*. 21 L. Quar. Rev. 258.
- DISQUALIFICATION OF EXECUTORS ON OTHER THAN STATUTORY GROUNDS—PERSONAL AND IMMORAL UNFITNESS. *John W. Smith*. Contending that such disqualification is an unwarranted interference with the testator's expressed desires. 61 Cent. L. J. 106.
- DO WE NEED A PHILOSOPHY OF LAW? *Roscoe Pound*. Discussing the growth and supremacy of the Common Law, and suggesting as a remedy for its present weakening a departure from the individualistic view. 5 Columbia L. Rev. 339.
- DURATION OF COPYRIGHT. *Samuel J. Elder*. Showing need of an extension of the term, and comparing our law with that of foreign nations. 14 Yale L. J. 417.
- ESTOPPEL BY ASSISTED REPRESENTATION. *John S. Ewart*. Treating of Agency by Estoppel. 5 Columbia L. Rev. 456.
- EXCLUSIVENESS OF THE POWER OF CONGRESS OVER INTERSTATE AND FOREIGN COMMERCE, THE. I. *James S. Rogers*. A review of the leading cases, arguing against the view that state power is concurrent. 53 Am. L. Reg. 529.
- FREEDOM OF CONTRACT. *Jerome C. Knowlton*. Discussing how far the right of the individual or municipality to contract may constitutionally be curtailed by the state. A résumé of the law. 3 Mich. L. Rev. 617.
- HAGUE COURT AND VITAL INTERESTS, THE. *Thomas Barclay*. Arguing for general arbitration treaties in matters affecting the "national honor or vital interests" of nations. 21 L. Quar. Rev. 109.
- INCORPORATION BY THE STATES. *Herbert Knox Smith*. Urging a national uniform law for the regulation of corporations. 14 Yale L. J. 385.
- INFLUENCE OF THE BAR IN THE SELECTION OF JUDGES THROUGHOUT THE UNITED STATES, THE. *Simon Fleischmann*. 13 Am. Law. 165, 199.
- IN HOW FAR MAY ACTS OF THE LEGISLATURE BE MADE CONTINGENT UPON BEING ACCEPTED BY POPULAR VOTE WITHOUT VIOLATING THE PRINCIPLE THAT LEGISLATIVE POWER CANNOT BE DELEGATED. *F. E. Williams*. Drawing the line between acts that affect the state as a whole, and local option laws submitted to the district affected. 61 Cent. L. J. 3.
- JURISDICTION OVER NON-RESIDENTS IN PERSONAL ACTIONS. *Edward Q. Keasbey*. Reviewing the English and American decisions. 5 Columbia L. Rev. 436.
- LABOR STRIKES AND INJUNCTIONS. *P. L. Edwards*. A review of the recent cases upon this subject. 67 Alb. L. J. 209.
- LAW OF BANK CHECKS, A PRACTICAL SERIES ON THE. *Anon.* 22 Banking L. J. 303, 393, 567.
- LAW OF THE CONSTITUTION IN RELATION TO THE ELECTION OF PRESIDENT, THE. *J. Hampton Dougherty*. A critical discussion of the provisions of the Constitution relating to the election of President. 67 Alb. L. J. 195.
- LAW'S DELAYS, THE—CAN THEY BE OBTIATED? *William Lambert Barnard, etc.* Containing a statement of comparative conditions in England, France, and Italy, with a discussion of the applicability of foreign methods to the United States. 17 Green Bag 261, 265, 268.
- LAW AS TO AN EMPLOYER'S LIABILITY AND WORKMEN'S COMPENSATION, PRIZE ESSAY ON THE. *John Hall*. Discussing the construction of the acts and their scope. 27 L. Stud. J. 178.
- LAW CONCERNING MONOPOLISTIC COMBINATIONS IN CONTINENTAL EUROPE, THE. *Francis Walker*. Comparing various attempts at curative legislation, and the causes of their failure. 20 Pol. Sci. Quar. 13.
- LEGACIES TO SERVANTS. *C. B. Labatt*. A short treatment in text-book style, with useful statement of cases. 41 Can. L. J. 425.
- LEGAL RIGHTS IN THE REMAINS OF THE DEAD. *Frank W. Grinnell*. A highly interesting discussion, with full citation of the authorities, of the right and manner of disposing of dead bodies. 17 Green Bag 345.
- LIABILITY OF WATER COMPANIES FOR FIRE LOSSES—ANOTHER VIEW. *Albert Martin Kales*. Restating the prevailing doctrine that the property owners cannot sue. 3 Mich. L. Rev. 501.
- LIMITATION OF HOURS OF LABOR AND THE FEDERAL SUPREME COURT. *Ernest Freund*. Severely criticising the recent case of *People v. Lochner*. 17 Green Bag 411.
- MANDAMUS AGAINST A GOVERNOR. *Edward J. Myers*. Arguing that the writ should not issue against the governor of a state. 3 Mich. L. Rev. 631.
- MARITIME CONFERENCE, THE. II. *Anon.* Commenting upon the work of the recent conference and the problems which confront it in its endeavor to establish a uniform maritime code for all nations. 119 Law T. 263.

- MARITIME LAW AND JURISDICTION IN AUSTRALIA. *F. L. Stow.* 2 Commonwealth L. Rev. 157.
- MEDICAL EXPERT EVIDENCE. *Lucilius A. Emery.* Deploring the present unsatisfactory condition of medical expert testimony and favoring court experts as supplementary to the present party experts. 39 Am. L. Rev. 481.
- MOST INTERESTING CHANCERY SEQUEL TO A NOTED INSURANCE CASE AT LAW, A. *Robert J. Brennan.* Commenting adversely on the decision in Northern Assurance Co. v. Ass'n, 183 U. S. 308, holding that there can be no waiver by the insurer of a forfeiture clause when the insured is aware of the breach of the condition, and commending the contrary holding in Grand View Ass'n v. Assurance Co., 102 N. W. 246. 60 Cent. L. J. 484.
- MUNICIPAL ORDINANCES RELATING TO MATERIALS ENTERING INTO PUBLIC WORKS WHICH INTERFERE WITH INTERSTATE COMMERCE. *Eugene McQuillin.* 61 Cent. L. J. 65. See *supra*.
- NEW GERMAN CODE, THE. *F. P. Walton.* A comment upon the new German Code explaining briefly the legal system which it superseded and noticing the points in which it differs from English law. 4 Can. L. Rev. 372.
- NOTES ON MAINE'S "ANCIENT LAW." *Sir Frederick Pollock.* 21 L. Quar. Rev. 165, 274.
- NOTEWORTHY CHANGES IN THE STATUTE LAW OF THE YEAR. *Henry St. George Tucker.* Extracts from the Address of the President of the American Bar Association. 17 Green Bag 523.
- PARLIAMENT OF NATIONS, A. *Hayne Davis.* Discussing the movement toward general international arbitration. 12 The Bar, No. 4, 35.
- PHILIPPINE PENAL CODE, THE. *Richard W. Young.* Commenting upon the comparatively limited discretion of Philippine judges in imposing penalties. 13 Am. Law. 147.
- POWER OF A STATE TO FORBID THE TRAFFIC IN OR THE POSSESSION OF WILD GAME AND FISH WHEN BROUGHT IN FROM ANOTHER STATE OR COUNTRY AS AFFECTING INTERSTATE COMMERCE, THE. *Eugene F. Law.* Review of the authorities, and criticism of the decisions holding that a state has the right to prohibit such traffic. 60 Cent. L. J. 324.
- PRACTICE WORK IN LAW SCHOOLS. *James Parker Hall.* Its advisability discussed in a paper before the Association of American Law Schools. 17 Green Bag 528.
- RECOVERY OF MONEY PAID UNDER MISTAKE OF LAW. *Frederic C. Woodward.* Suggesting exceptions to the general rule of non-recovery, and offering a test. 5 Columbia L. Rev. 366.
- RIGHT OF A THIRD PARTY UNDER A CONTRACT INTER ALIOS. *A. C. Galt.* An article stating the law in England and Canada, with a collection of the cases in point. 4 Can. L. Rev. 364.
- SCHEME OF COPYHOLD ENFRANCHISEMENT, A. *H. J. Randall.* Suggesting an act abolishing copyhold tenures and converting them into freeholds. 21 L. Quar. Rev. 150.
- SOME CHANGES EFFECTED BY THE NEGOTIABLE INSTRUMENTS LAW IN MISSOURI. *J. M. Blayney, Jr.* Indicating the changes that the act may be expected to produce in the law of Missouri. 60 Cent. L. J. 363.
- SUBJECT OF "NO PROTEST," THE. *Anon.* A practical discussion. 22 Banking L. J. 311.
- THEORY AND PRACTICE IN THE LAW OF BAILMENTS. *Victor D. Cronk.* A brief criticism of the theory that there are three degrees of care in the Law of Bailments. 67 Alb. L. J. 135.
- TRUE CRITERIA OF CLASS LEGISLATION, THE. *Andrew Alexander Bruce.* Maintaining that the true test of class legislation is "whether or not by that legislation any person is hindered in his struggle or competition with his fellow men." 60 Cent. L. J. 425.
- WHEN WILL AN INNKEEPER'S LIEN FOR THE BOARD AND LODGING OF HIS GUEST EXTEND TO THE PROPERTY OF THIRD PERSONS BROUGHT TO THE HOTEL BY THE GUEST? *Walter J. Lotz.* Discussing the question whether the common law rule giving innkeepers a lien in such cases, is taking property without due process of law. 61 Cent. L. J. 43.
- XVI (XIV?) AMENDMENT—ITS HISTORY AND EVOLUTION, THE. I. *John W. Judd.* 13 Am. Law. 338.